

STATE OF HAWAII — DEPARTMENT OF TAXATION
**INSTRUCTIONS FOR FORM P-64A
AND FORM P-64B**

GENERAL INFORMATION

What Is the Conveyance Tax

The conveyance tax is imposed on all (1) transfers (2) of ownership or interest in real property (3) through deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, or other documents, unless the transfer is specifically exempted.

For Conveyance Tax Purposes, What Is a Transfer of Ownership or Interest in Real Property

Transfers of ownership or interest in real property through deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, or other documents include, but are not limited to, a (a) sale of real property interest, (b) contribution of a real property interest by a shareholder, member, partner, or grantor to a corporation, limited liability company/limited liability partnership, partnership, or trust, (c) distribution of a real property interest from a corporation, limited liability company/limited liability partnership, partnership, or trust to its shareholder, member, partner, or beneficiary/trustee/grantor, (d) gift of real property interest, (e) payment for goods and/or services or payment of debt in the form of a real property interest, and (f) lease, sublease, or timeshare interest whose full unexpired term is for a period of five or more years.

Who Is Subject to the Conveyance Tax

The person subject to the conveyance tax is generally the grantor, lessor, sublessor, assignor, transferor, seller, conveyor, or any other person conveying the real property interest.

How Is the Conveyance Tax Determined

The conveyance tax is payable on the actual and full consideration actually paid or ultimately required to be paid; it is immaterial for purposes of the conveyance tax, that the transfer or conveyance resulted in a gain or loss. The tax is calculated by multiplying the actual and full consideration by the rate of ten cents (\$.10) on each one hundred dollars (\$100) of the actual and full consideration. The conveyance tax imposed for each transaction shall be not less than one dollar (\$1.00).

Actual and full consideration is the price or amount (whether cash or otherwise) actually paid or required to be paid for real property including the value of any liens or encumbrances thereon at the time of sale, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, transfer, or conveyance. Consideration is not limited to cash and includes any promise, act, forbearance, property, interest, value, gain, advantage, benefit, or profit offered by one party to another in return for the other party's act or promise. Consideration other than cash consideration includes (a) tangible personal property, e.g., furniture and equipment, (b) an increase in the value of stock or of a partnership, limited liability partnership, or limited liability company interest, (c) a release from or assumption of indebtedness, e.g., mortgages, loans, and liens, (d) the fair market value of any properties exchanged, (e) the value of any increase in lease rent, or (f) any other economic benefit.

General Filing and Payment Requirements

Although the Conveyance Tax Law is administered by the Department of Taxation, forms and payments are generally submitted to the Bureau of Conveyances, which is part of the

Department of Land and Natural Resources. A Form P-64A, Conveyance Tax Certificate, must be completed by the person subject to the tax and filed at the Bureau of Conveyances no later than 90 days after the date of transaction, or prior to, or at the time the transfer document is recorded and filed with the Bureau of Conveyances; otherwise, penalty and interest will be assessed.

Form P-64B, Exemption from Conveyance Tax, must be completed to request certain exemptions from the conveyance tax. Depending on the type of transaction, Form P-64B must either be (1) submitted to the Department of Taxation, Technical Section for approval of the exemption, or (2) filed directly with the Bureau of Conveyances.

Penalty and Interest

Section 231-39, Hawaii Revised Statutes (HRS), provides for the assessment of a late filing penalty of 5% of the tax due for each month or part of a month that Form P-64A is filed late, i.e., beyond 90 days after the date of transaction, up to a maximum of 25%. Section 231-39, HRS, also provides for the assessment of interest on taxes not paid by their due date. The interest rate for not paying the tax when due is 2/3 of 1% of the unpaid amount, i.e., the sum of the tax due plus the amount of any penalty, for each month or part of a month it remains unpaid.

When Is a Conveyance Tax Certificate Not Required

A Form P-64B is not required for documents for the following transactions; the documents may be recorded or filed directly with the Bureau of Conveyance:

- 1) Leases or subleases with full unexpired terms of less than 5 years.
- 2) Documents executed prior to January 1, 1967.
- 3) Documents given to secure a debt or obligation.
- 4) Documents in which the federal, State, or county governments are the only parties (i.e., both as transferor and transferee).
- 5) Documents involving eminent domain proceedings.
- 6) Documents which only convey or grant easements.
- 7) Documents involving a merger or consolidation.
- 8) Documents involving a dissolving limited partnership to its corporate general partner that owns at least 90% constructive ownership interest in the partnership.

For further information, please refer to the following, which can be obtained from the Department of Taxation's website at www.state.hi.us/tax or by contacting the Department's Taxpayer Services Branch:

- Chapter 247, Hawaii Revised Statutes, Conveyance Tax Law
- Chapter 18-247, Hawaii Administrative Rules, Conveyance Tax Law
- Tax Information Release No. 89-1, RE: Conveyance Tax on Certain Time Share Conveyances
- Tax Information Release No. 89-11, RE: The Administration and Application of the Conveyance Tax Law
- Tax Information Release No. 89-12, RE: The Administration and Application of the Conveyance Tax
- Tax Information Release No. 90-11, RE: The Administration and Application of the Conveyance Tax Law

- Tax Information Release No. 92-2, RE: The Administration and Application of the Conveyance Tax Law

SPECIFIC INSTRUCTIONS

When completing either Form P-64A or Form P-64B, please type or print. If Form P-64A or Form P-64B is not completed properly, it will not be accepted/approved.

Form P-64A (To Pay the Conveyance Tax)

Form P-64A is filed for each document conveying any real property interest which is subject to the conveyance tax and is used to declare the actual and full consideration paid or required to be paid and to pay the conveyance tax.

Part I

Line 1 - Date of Transaction

Enter the appropriate date. The Date of Transaction is the later of (1) the date the document is executed or (2) the date of the last acknowledgment.

"Document" means deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, and the like.

"Executed" means, with regard to a document, completed (i.e., all blank spaces are filled in) and signed by the parties to the document.

"Date of last acknowledgment" means the date that the last formal declaration is noted on a document. The acknowledgment or formal declaration is made by a party to an executed document stating that signing the document is the party's free act and deed. The signing is usually made before and certified by a notary.

Line 2 - Tax Map Key Information

Tax Map Key - Enter the tax map key (TMK) of the parcel(s) conveyed. For condominiums, list the condominium property regime (CPR) number next to the TMK. If there are several TMKs which exceed the space provided, attach a separate continuation sheet to the Form P-64A to report the additional TMKs (entering only "See Attached" in the TMK section is not acceptable). To obtain the TMK, please call the real property tax office in the county (City and County of Honolulu, County of Maui, County of Hawaii, or the County of Kauai) where the property is located (visit the Department's website at www.state.hi.us/tax for links to the counties' websites). The TMK can also be obtained from your Real Property Tax Assessment Notice, from your Real Property Tax Bill, and for timeshare owners, from your timeshare management company.

Island - Enter the island where the real property interest is located.

Apartment Number - Enter the apartment number, if applicable.

Line 3 - Names of Parties to the Document

List the names of all parties to the document. If the names of the sellers/transferrors/grantors and purchasers/transferees/grantees exceed the space provided, attach a separate continuation list to the Form P-64A to report the additional names (entering only "See Attached" in the names sections is not acceptable).

Part II

Sale, Agreement of Sale (A/S), Assignment of A/S, or Other Transfer/Conveyance

Line 1 - State the total amount of actual and full consideration paid or required to be paid for the real property interest. If the

conveyance involves a timeshare interest with a term of five years or more, state the actual and full consideration for the timeshare interest.

Exchange of Properties

When parties exchange real property interests, both conveyances are subject to the conveyance tax. The consideration shall be the fair market value of all property interests exchanged plus any other consideration.

Line 2a - State the fair market value of all property interests exchanged.

Line 2b - State the total amount of other actual and full consideration paid or required to be paid for the real property interest(s) exchanged.

Assignment of Lease

When a lease is entered into, a conveyance tax is paid based on the rent to be paid over the life of the lease. When a lease is assigned, additional conveyance tax is due if any consideration is paid to have the lease assigned and/or if the rent to be paid or the term of the lease is increased.

Line 3a - State the total amount of actual and full consideration paid or required to be paid for the assignment of the lease.

Line 3b - State the value of any increase in lease rental related to the assignment of lease, discounted to present value and capitalized at the rate of 6%.

Lease or Sublease

Only leases or subleases with terms of five years or more are subject to the conveyance tax. The basis for the conveyance tax for these leases and subleases is the annual rent to be paid over the life of the lease or sublease discounted to present value and capitalized at the rate of 6% plus any other actual and full consideration paid for the lease or sublease, including improvements.

Line 4a - State the term of the lease, i.e., how many years the lease is to run, and the date the lease is to start. If the annual lease rent to be paid is fixed throughout the life of the lease, state the number of years of the lease and the annual rent to be paid in the "1st period" line. If the annual rent to be paid changes during the life of the lease, e.g., a graduated or step-up lease, complete the appropriate number of "period" lines, stating the number of years of the lease a particular annual rent will be paid. To determine the total rent discounted to present value and capitalized at the rate of 6%, multiply the annual lease rent by the proper Inwood Factor (see the Inwood Factors Table on page 2 of the Form P-64A) or the equivalent present day valuation table at the rate of 6%.

Example 1: 10 year lease with rent fixed at \$12,000 per year. Multiply annual fixed rent by the proper Inwood Factor that corresponds to the entire term of the lease.
 $\$12,000 \times 7.360$ (10 yrs. factor from the Inwood Factors Table) = \$88,320

Example 2: 20 year lease with rent fixed at \$12,000 per year for 15 years. Multiply annual fixed rent by the proper Inwood Factor that corresponds to the entire term of the lease.
 $\$12,000 \times 11.469$ (20 yrs. factor from the Inwood Factors Table) = \$137,628

Example 3: 5 year percentage lease with minimum rent at \$12,000 per year. Multiply annual minimum rent by the proper Inwood Factor that corresponds to the entire term of the lease.
 $\$12,000 \times 4.212$ (5 yrs. factor from the Inwood Factors Table) =

\$50,544

Example 4: 15 year percentage lease with no minimum rent per year.

Multiply the estimated average annual rent expected during the first 10-year period by the proper Inwood Factor that corresponds to the entire term of the lease.

Estimated average annual rent x 9.712 (15 yrs. factor for the Inwood Factors Table)

Example 5: 15 year lease with rent fixed at \$12,000 for years 1 through 5, \$12,600 for years 6 through 10, and \$13,230 for years 11 through 15.

Multiply the annual fixed rent by the proper Inwood Factor that corresponds to the terms of the lease.

$\$12,000 \times 4.212$ (5 yrs. factor for the Inwood Factors Table) = \$50,544.00

$\$12,600 \times (7.360 - 4.212)$ (10 yrs. factor less 5 yrs. factor from the Inwood Factors Table) = $\$12,600 \times 3.148$ = \$39,664.80

$\$13,230 \times (9.712 - 7.360)$ (15 yrs. factor less 10 yrs. factor from the Inwood Factors Table) = $\$13,230 \times 2.352$ = \$31,117.00

Capitalized Value of Graduated Lease Rental = \$50,544.00 + \$39,664.80 + \$31,117.00 = \$121,325.80

Line 4b - State the total amount of actual and full consideration paid or required to be paid for the leasehold, including improvements.

Tax Computation and Balance Due

Line 8 - The tax is calculated by multiplying the actual and full consideration by the rate of ten cents (\$.10) on each one hundred dollars (\$100.00) of the actual and full consideration. The conveyance tax must be rounded to the nearest ten cents (\$.10); the minimum conveyance tax is one dollar (\$1.00).

Line 9a - Section 231-39, Hawaii Revised Statutes (HRS), provides for the assessment of a late filing penalty of 5% of the tax due for each month or part of a month that Form P-64A is filed late, i.e., beyond 90 days after the date of transaction, up to a maximum of 25%. For assistance in calculating the penalty due, contact the Department of Taxation, Taxpayer Services Branch at (808) 587-4242.

Line 9b - Section 231-39, HRS, provides for the assessment of interest on taxes not paid by their due date. The interest rate for not paying the tax when due is 2/3 of 1% of the unpaid amount, i.e., the sum of the tax due plus the amount of any penalty, for each month or part of a month it remains unpaid. For assistance in calculating the interest due, contact the Department of Taxation, Taxpayer Services Branch at (808) 587-4242.

Line 10 - If the transaction will be recorded, make your check for the total balance due payable to the "Bureau of Conveyances." If the transaction will not be recorded, make your check for the total balance due payable to the "Hawaii State Tax Collector."

Reporting of Real Property Interests Located on the Island of Oahu That Are Owned or Acquired by Foreign Persons

Under Honolulu Ordinance No. 90-68, the Department of Taxation has cooperated with the City and County of Honolulu to require certain foreign persons to report their real property holdings on Oahu. The foreign person shall mark the appropriate check box indicating the person as the transferor and/or transferee. If you have any questions or concerns relating to this requirement, please contact the City and County of Honolulu, Department of Finance, Real Property Technical Office at 842 Bethel Street, Honolulu, Hawaii 96813, (808) 527-5521 or (808) 527-5512.

Signatures

One of the following must sign the Form P-64A:

- the seller(s)/transferor(s)/grantor(s), or
- the purchaser(s)/transferee(s)/grantee(s), or
- a duly authorized representative of any party to the transfer (representative must attach a power of attorney, e.g., Form N-848, to the Form P-64A)

If the real property interest is transferred by the federal, State, or county governments, the purchaser(s)/transferee(s)/grantee(s) must declare the actual and full consideration, pay the conveyance tax, and sign the Form P-64A.

The penalty for false declaration upon conviction of a class C felony is a fine not more than \$100,000 or imprisonment not more than 3 years or both; corporations shall not be fined more than \$500,000.

Where to File

If the documents will be recorded, submit the completed Form P-64A, along with payment, to the Bureau of Conveyances at 1151 Punchbowl Street, Honolulu, HI 96813 or P. O. Box 2867, Honolulu, HI 96803-2867, prior to or at the time of the recordation or filing, but no later than 90 days after the date of transaction. If the Form P-64A is being submitted more than 90 days after the date of transaction, please contact the Department of Taxation, Taxpayer Services Branch at (808) 587-4242, for the calculation of penalty and interest. No document for which the Form P-64A is required will be accepted for recordation by the Bureau of Conveyances.

If the transaction will not be recorded, submit the completed Form P-64A, along with payment, to the Department of Taxation, P. O. Box 259, Honolulu, HI 96809-0259.

Form P-64B (To Request an Exemption From the Conveyance Tax)

Form P-64B is used to request an exemption from the conveyance tax. Depending on the type of transaction, Form P-64B must either be (1) submitted to the Department of Taxation, Technical Section for approval of the exemption, or (2) filed directly with the Bureau of Conveyances.

Use Form P-64B to exempt the following documents from the conveyance tax:

- 1) Documents that confirm or correct a document previously recorded or filed.
- 2) Documents between a husband and wife, reciprocal beneficiaries, or parent and child, in which only a nominal consideration is paid.
- 3) Documents in which a nominal consideration of \$100 or less is paid or to be paid.
- 4) Documents in fulfillment of an agreement of sale and, where applicable, an assignment of agreement of sale, if the conveyance tax on the agreement of sale was previously paid when the agreement of sale was recorded.
- 5) Documents involving a tax sale for delinquent taxes or assessments.
- 6) Documents involving partition deeds among co-owners, provided each exemption claimed declares each owner's undivided interest in the real property and the value of that interest before partition, and each owner's proportionate interest and the value of that interest after partition.
- 7) Documents between marital partners or reciprocal beneficiaries who are parties to a divorce action or termination of reciprocal beneficiary relationship which are executed pur-

suant to an order of the court in the divorce action or termination of reciprocal beneficiary relationship.

- 8) Documents involving conveyance from a testamentary trust to a trust beneficiary.
- 9) Documents involving conveyance from the grantor to a grantor's revocable living trust **or** from a grantor's revocable living trust to the grantor.

Part I

Line 1 - Date of Transaction

Enter the appropriate date. The Date of Transaction is the later of (1) the date the document is executed or (2) the date of the last acknowledgment.

"Document" means deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, and the like.

"Executed" means, with regard to a document, completed (i.e., all blank spaces are filled in) and signed by the parties to the document.

"Date of last acknowledgment" means the date that the last formal declaration is noted on a document. The acknowledgment or formal declaration is made by a party to an executed document stating that signing the document is the party's free act and deed. The signing is usually made before and certified by a notary.

Line 2 - Tax Map Key Information

Tax Map Key - Enter the tax map key (TMK) of the parcel(s) conveyed. For condominiums, list the condominium property regime (CPR) number next to the TMK. If there are several TMKs which exceed the space provided, attach a separate continuation sheet to the Form P-64B to report the additional TMKs (entering only "See Attached" in the TMK section is not acceptable). To obtain the TMK, please call the real property tax office in the county (City and County of Honolulu, County of Maui, County of Hawaii, or the County of Kauai) that the property being transferred is located in. The TMK can also be obtained from your Real Property Tax Assessment Notice, from your Real Property Tax Bill, and for timeshare owners, from your time share management company.

Island - Enter the island where the real property interest is located.

Apartment Number - Enter the apartment number, if applicable.

Line 3 - Names of Parties to the Document

List the names of all parties to the document. If the names of the sellers/transferors/grantors and purchasers/transferees/grantees exceed the space provided, attach a separate continuation list to the Form P-64B to report the additional names (entering only "See Attached" in the names sections is not acceptable).

Part III and Part IV

Complete Part III or Part IV, but not both, that best describes the exemption claimed (if both Part III and Part IV are completed, Form P-64B will not be accepted/approved).

If Part III is used, checkmark only one best applicable box and complete the "Describe Transfer" section. When completing the "Describe Transfer" section, enter a concise explanation; if more

space is needed, continue the explanation on a separate sheet of paper and attach it to the Form P-64B (entering only "See Attached" in the "Describe Transfer" section is not acceptable).

Reporting of Real Property Interests Located on the Island of Oahu That Are Owned or Acquired by Foreign Persons

Under Honolulu Ordinance No. 90-68, the Department has cooperated with the City and County of Honolulu to require certain foreign persons to report their real property holdings on Oahu. The foreign person shall mark the appropriate check box indicating the person as the transferor and/or transferee. If you have any questions or concerns relating to this reporting requirement, please contact the City and County of Honolulu, Department of Finance, Real Property Technical Office at 842 Bethel Street, Honolulu, Hawaii 96813, (808) 527-5521 or (808) 527-5512.

Signatures

One of the following must sign the Form P-64B:

- the seller(s)/transferor(s)/grantor(s), or
- the purchaser(s)/transferee(s)/grantee(s), or
- a duly authorized representative of any party to the transfer (representative must attach a power of attorney, e.g., Form N-848, to the Form P-64B)

If the real property interest is transferred by the federal, State, or county governments, the purchaser(s)/transferee(s)/grantee(s) must sign the Form P-64B.

The penalty for false declaration upon conviction of a class C felony is a fine not more than \$100,000 or imprisonment not more than 3 years or both; corporations shall not be fined more than \$500,000.

Where to File

If the exemption claimed falls under Part III, submit Form P-64B, and the document to be recorded (a copy of the document is acceptable) to the Department of Taxation, Technical Section, at P.O. Box 259, Honolulu, HI 96809-0259, or at 830 Punchbowl Street, Room 124, in Honolulu, (808) 587-1577, for review and approval before filing with the Bureau of Conveyances. Upon receipt of the Form P-64B by the Technical Section, the Form P-64B will be reviewed within three (3) to ten (10) business days. In general, after the Form P-64B has been approved or disapproved, the Form P-64B will be returned to the party who submitted the Form P-64B for review by either (1) telephone notification to pick-up the Form P-64B at the Department of Taxation, 830 Punchbowl Street, Room 124 or (2) by mail. Instead of returning the Form P-64B, the Technical Section will forward an approved Form P-64B to the Bureau of Conveyances for recording if we have all of the following: (1) written instructions to do so by the party who submitted the Form P-64B for review, (2) the original of the document to be recorded, and (3) all the necessary recording fees (if any item is missing, the Form P-64B will be returned to the party who submitted the Form P-64B for review).

If the exemption appears in Part IV, file the Form P-64B directly with the Bureau of Conveyances at 1151 Punchbowl Street, Honolulu, HI 96813 or P. O. Box 2867, Honolulu, HI 96803-2867. For the Bureau of Conveyances **filing fee information**, visit the Bureau's website at www.hawaii.gov/dlnr/bc or call (808) 587-0134 (regular system) or (808) 587-0138 (land court).